

Remarks and Arguments

The Claims

1. The Examiner rejects claims 1 and 7 under 35 U.S.C. §102(be), as being anticipated by Gardner, Jr. (U.S. No. 5,228,427).

Legal standard under Section 102

2. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. The elements must be arranged as required by the claim. See, MPEP § 2131. The meaning of the claim elements is determined by reference to the specification. 37 C.F.R. § 1.75(d)(1). “The specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Vitronics Corp. v. Conceptronic, Inc.*, 39 USPQ2d 1573, 1577 (Fed. Cir. 1996); citing *Markman v. Westview Instruments, Inc.*, 34 USPQ2d 1321, 1330 (Fed. Cir. 1995) (en banc), *aff’d*, 38 USPQ2d 1039 (1996).

Anticipation not shown

3. Applicant would respectfully show that the *prima facie* case of anticipation has not been made, because the Gardner, Jr. reference does not disclose, either expressly or inherently, each element of either claim 1 or claim 7.

4. Claim 1 claims a ball sizer for a paint-ball gun, comprising: (10) a bore having an entrance; (2) the entrance to the bore having a chamfer; and, (3) the chamfer having a smooth transition from the entrance to the bore. Claim 7 is similar except the chamfer having a smooth transition is located at the exit of the ball sizer. Applicant’s

specification and drawings define the meaning of the terms describing these elements, and they are not equivalent to those in the Gardner, Jr. reference. See, specification, p. 12, lines 12-15.

5. The Examiner cites Fig. 7 of Gardner, Jr., depicting a ball sizer (50) having a bore and a chamfer (51) at one end, as follows:

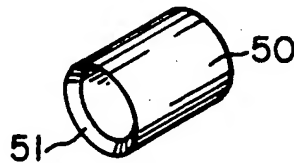


Fig. 7

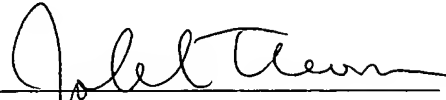
6. Gardner, Jr. thus shows a chamfer (51) at the entrance to his ball sizer (50), but fails to disclose the limitation in claims 1 and 7 of "...the chamfer having a smooth transition from the entrance to the bore of the sizer [from the exit in claim 7]." The claimed limitation is depicted in Fig. 2 of the application. By contrast, Gardner, Jr.'s Fig. 7 shows a line representing a sharp transition from the chamfer (51) to the bore of the sizer (50). Further, in the case of claim 7, Gardner, Jr. does not disclose any chamfer at all from the exit of his sizer to the bore of the barrel.

Conclusion

7. The Gardner, Jr. reference does not show the limitation of claim 1 that the chamfer in the entrance to the ball sizer further has a "smooth transition." Gardner, Jr. fails to disclose a chamfer having a smooth transition in the exit of a ball sizer as required by claim 7. Since Gardner, Jr. does not disclose every element of the independent claims,

as claimed, it is not anticipating. Thus, claims 1 and 7, and the depending claims are allowable.

Respectfully Submitted,

By 

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